



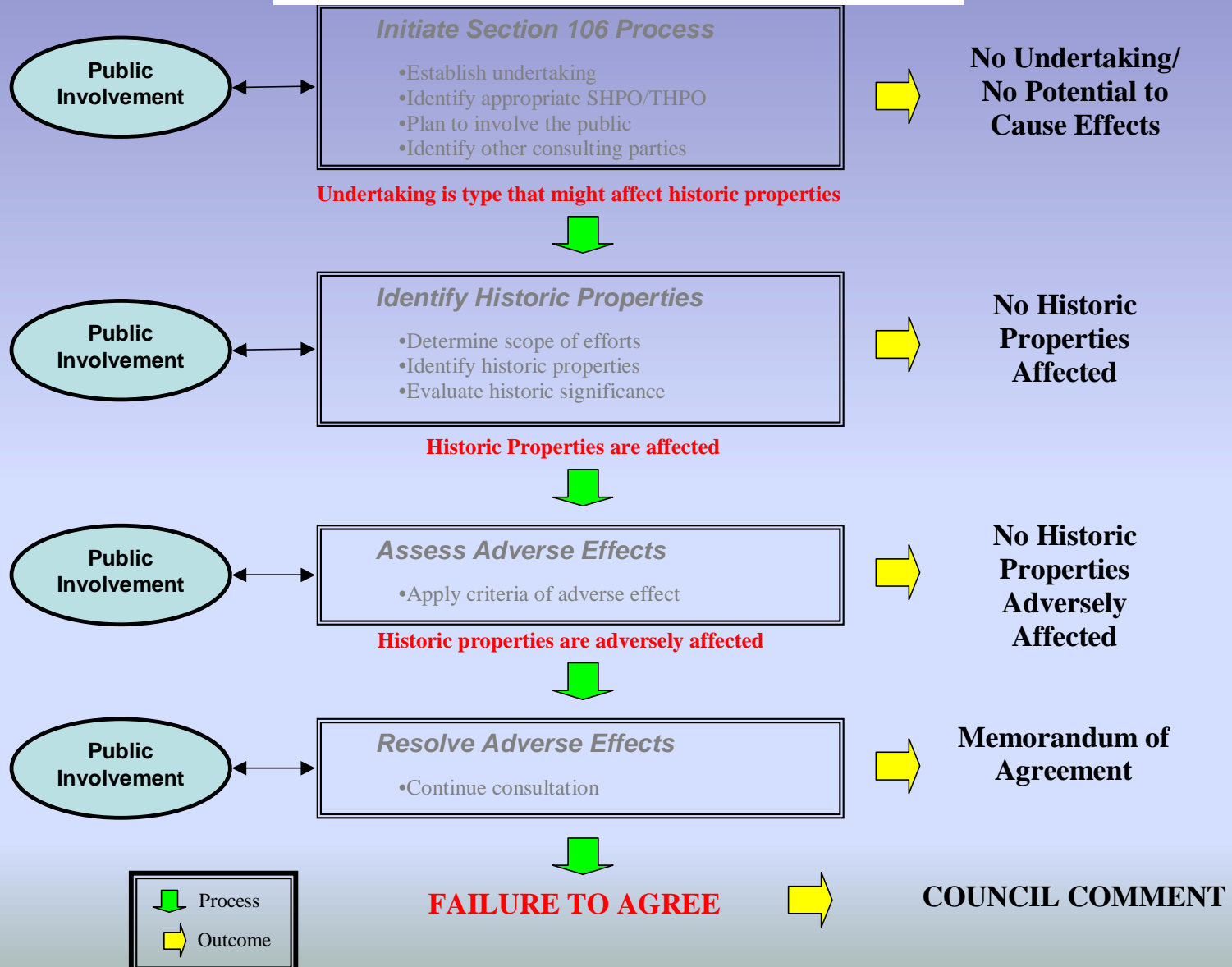
# Advisory Council on Historic Preservation (ACHP)

- Independent Federal agency
- Advises President and Congress on historic preservation matters
- Oversees Section 106 process

## Section 106 of the NHPA

- **Take into account the effects of its actions on Historic Properties**
- **Provide the ACHP a reasonable opportunity to comment**

# THE SECTION 106 PROCESS



# **Section 106 Regulatory Philosophy**

- **Framework for problem solving;**
- **Grounded in consultation;**
- **Provides stakeholders access to Federal decision-making;**
- **Historic Preservation is not the only useful public purpose**
- **Results range from full preservation to total loss of historic properties**

# What is consultation?

“... the process of seeking, discussing, and considering the views of other participants, and where feasible, seeking agreement with them regarding matters arising in the Section 106 process”

# **Consulting Parties**

- **State Historic Preservation Officer**
- **Tribal Historic Preservation Officer**
- **ACHP**
- **Indian Tribes and Native Hawaiian Organizations**
- **National Park Service**
- **Applicants**
- **Local Governments**

# What is expected of Federal agency consultation?

Federal agency will:

- make reasonable and good faith effort to identify Indian tribes
- recognize the government-to-government relationship

(continued)



# Federal agency consultation, continued

Federal agency must:

- consult with Indian tribes when they attach religious and cultural significance to historic properties
- conduct consultation in a sensitive manner respectful of tribal sovereignty

# **Government-to-Government Consultation**

- **Federal decision-maker consults with the head of the tribe.**
- **Applicants cannot consult on behalf of an agency unless the tribe agrees.**
- **Agreements between tribes and Agencies may be executed outlining consultation parameters.**

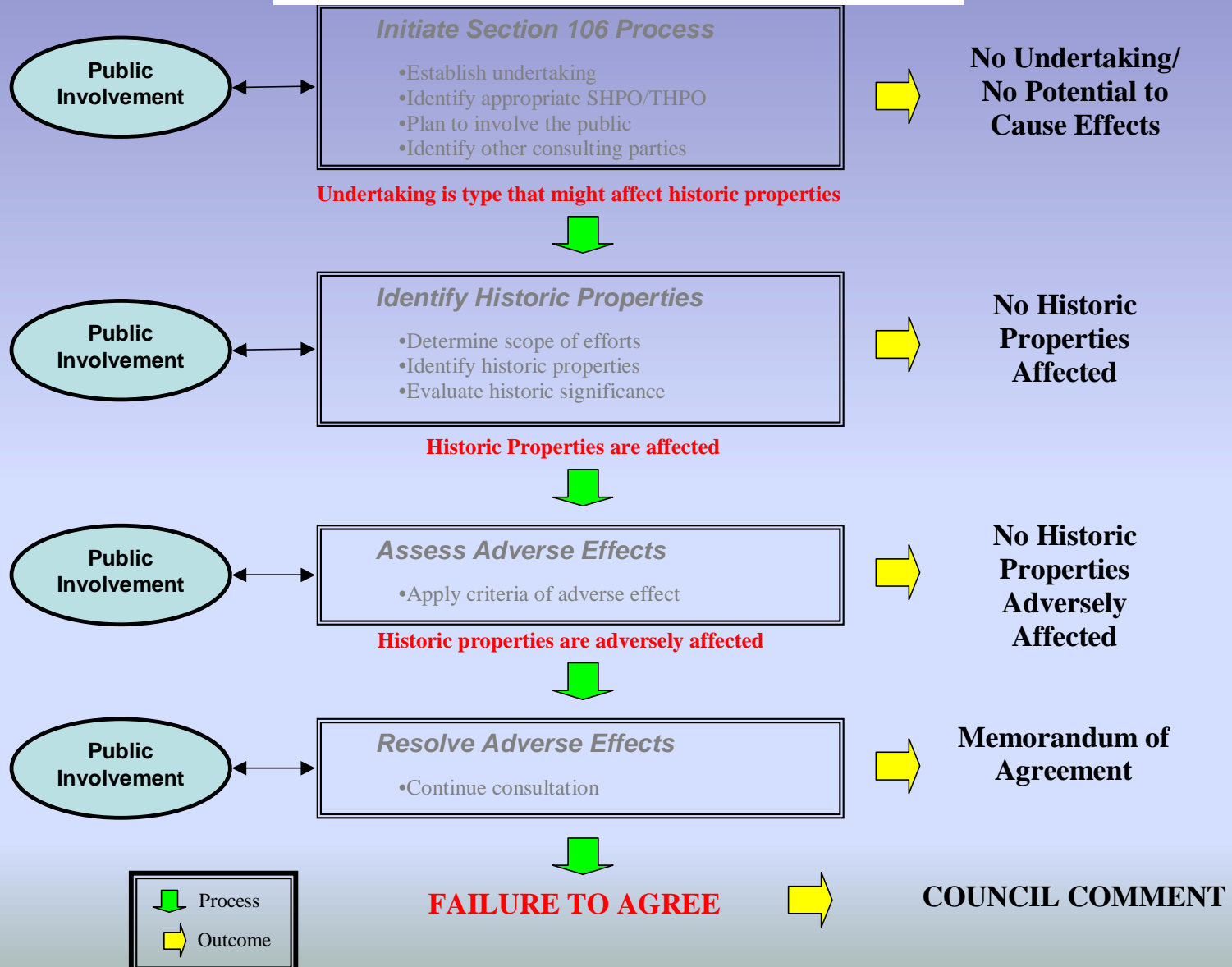
# Are there tools to help agencies and tribes consult?

Federal agency and Indian tribe may enter into an agreement that:

- specifies responsibilities
- establishes additional rights to participate or concur

Roles of other participants cannot be modified without consent

# THE SECTION 106 PROCESS



# Comparing NEPA and Section 106

- NEPA

- Public disclosure process
- Defines agency planning process
- Focuses on alternatives
- Closed timeframe
- CEQ regulations binding on all agencies

- Section 106

- Stakeholder consultation process
- Separate from agency planning process
- Focuses on eliminating adverse effects
- Open timeframe
- ACHP regulations binding on all agencies

# Coordinating NEPA and Section 106 Efforts

- Coordinating efforts under NEPA and Section 106 can make requirements of both more efficient.
- You must always meet the requirements of BOTH statutes when coordinating efforts – categorical exclusions under NEPA will still require Section 106 compliance.
- Good public policy to avoid redundancy.



# Where to Go For Help...



- **ACHP:**

**Office of Federal Agency Programs**

**Old Post Office Building**

**1100 Pennsylvania Avenue, NW Suite 809**

**Washington, DC 20004**

- **(202) 606-8505**

- **[www.achp.gov](http://www.achp.gov)**